

INDIANA BOARD OF TAX REVIEW

Final Determination Findings and Conclusions Lake County

Petition #: 45-026-02-1-5-00756
Petitioners: Louis & Virginia Mroz
Respondent: Department of Local Government Finance
Parcel #: 007263501440032
Assessment Year: 2002

The Indiana Board of Tax Review (the Board) issues this determination in the above matter, and finds and concludes as follows:

Procedural History

1. The informal hearing as described in Ind. Code § 6-1.1-4-33 was held February 16, 2004. The Department of Local Government Finance (the DLGF) determined that the assessment for the subject property is \$50,300 and notified the Petitioners on April 1, 2004.
2. The Petitioners filed a Form 139L on April 14, 2004.
3. The Board issued a notice of hearing to the parties dated October 7, 2004.
4. Special Master Kathy J. Clark held the hearing in Crown Point on November 10, 2004.

Facts

5. The subject property is located at 4327 Johnson Avenue, Hammond. The location is in North Township.
6. The subject property consists of a one-story brick single-family dwelling on a lot measuring 35 feet by 125 feet.
7. The Special Master did not conduct an on-site visit of the property
8. Assessed value of subject property as determined by the DLGF:
Land \$14,800 Improvements \$35,500 Total \$50,300.
9. Assessed value requested by Petitioners:
Land \$7,800 Improvements \$35,500 Total \$43,300.

10. Persons sworn as witnesses at the hearing:
For Petitioners — Louis Mroz, Owner,
For Respondent — Diane Spenos, Assessor/Auditor.

Issue

11. Summary of Petitioners' contentions in support of an error in the assessment:
- a) The land is over assessed. Business lots in the area sell for less than what the subject's land is assessed. *Petitioner Exhibits 1-4; Mroz testimony.*
 - b) People trying to sell properties in the Hammond area have to accept much less than what they are asking. The property next door to the subject, 4329 Johnson Avenue, was listed for sale at \$86,000 and sold for much less. *Petitioner Exhibit 5; Mroz testimony.*
 - c) The population of Hammond is dwindling. The population has decreased from approximately 117,000 to 86,000. People are moving out because the land is not worth anything. *Mroz testimony.*
 - d) Calumet Harbor is being dredged for a dump. When the wind blows the chemicals being dredged up cause a foul smell. If this continues the subject's value will decrease. *Petitioner Exhibit 8; Mroz testimony.*
12. In support of the assessment Respondent contends that the property at 4329 Johnson Avenue sold in March of 2000 for \$62,000. It has the same size lot as the subject, is similar in grade, condition, and construction style. It is slightly smaller than the subject. The time adjusted sales price is \$59,614, which equates to a per square foot value of \$62.10. The subject's per square foot value is \$31.56. *Respondent Exhibits 2, 4, 5; Spenos testimony.*

Record

13. The official record for this matter is made up of the following:
- a) The Petition,
 - b) The tape recording of the hearing labeled Lake County 627,
 - c) Exhibits:
 - Petitioner Exhibit 1: Photographs of four vacant lots,
 - Petitioner Exhibit 2: Classified listings of lots, November 30, 2003,
 - Petitioner Exhibit 3: Classified listings of lots, November 30, 2003,
 - Petitioner Exhibit 4: Classified listings of lots, May 2, 2004,

Petitioner Exhibit 5: Classified listings of comparable homes, December 7, 2003,
Petitioner Exhibit 6: Classified listings of comparable homes, October 17, 2004,
Petitioner Exhibit 7: Classified listings of comparable homes, May 2, 2004
Petitioner Exhibit 8: Informational flyer on the confined disposal facility,
Respondent Exhibit 1: Form 139L,
Respondent Exhibit 2: Subject property record card,
Respondent Exhibit 3: Subject photograph,
Respondent Exhibit 4: Comparable sales,
Respondent Exhibit 5: Comparable property record card and photograph,
Board Exhibit A: Form 139L,
Board Exhibit B: Notice of Hearing,
Board Exhibit C: Sign in Sheet,

d) These Findings and Conclusions.

Analysis

14. The most applicable governing cases are:

- a) A Petitioner seeking review of a determination of an assessing official has the burden to establish a prima facie case proving that the current assessment is incorrect, and specifically what the correct assessment would be. *See Meridian Towers East & West v. Washington Twp. Assessor*, 805 N.E.2d 475, 478 (Ind. Tax Ct. 2003); *see also, Clark v. State Bd. of Tax Comm'rs*, 694 N.E.2d 1230 (Ind. Tax Ct. 1998).
- b) In making its case, the taxpayer must explain how each piece of evidence is relevant to the requested assessment. *See Indianapolis Racquet Club, Inc. v. Washington Twp. Assessor*, 802 N.E.2d 1018, 1022 (Ind. Tax Ct. 2004) (“[I]t is the taxpayer's duty to walk the Indiana Board . . . through every element of the analysis”).
- c) Once the Petitioner establishes a prima facie case, the burden shifts to the assessing official to rebut the Petitioner’s evidence. *See American United Life Ins. Co. v. Maley*, 803 N.E.2d 276 (Ind. Tax Ct. 2004). The assessing official must offer evidence that impeaches or rebuts the Petitioner’s evidence. *Id.*; *Meridian Towers*, 805 N.E.2d at 479.

15. The Petitioners did not provide sufficient evidence to establish a prima facie case. This conclusion was arrived at because:

- a) The Petitioners’ opinion that the land assessment is higher than its market value does not qualify as probative evidence and it does not support his case. *Lacy Diversified Indus. v. Dep’t of Gov’t Fin.*, 799 N.E.2d 1215, 1221-1222 (Ind. Tax Ct. 2003); *Whitley Products v. State Bd. of Tax Comm'rs*, 704 N.E.2d 1113, 1119 (Ind. Tax Ct. 1998).

- b) None of the classified advertisements submitted provide enough detail to allow the Board to determine if the properties are, in fact, comparable to the subject. *Long v. Wayne Twp. Assessor*, 821 N.E.2d 466, 470 (Ind. Tax Ct. 2005); *Blackbird Farms Apts. v. Dep't of Local Gov't Fin.*, 765 N.E.2d 711, 715 (Ind. Tax Ct. 2002).
- c) Where the Petitioner has not supported the claim with probative evidence, the Respondent's duty to support the assessment with substantial evidence is not triggered. *Lacy Diversified*, 799 N.E.2d at 1222.

Conclusion

16. The Petitioner failed to establish a prima facie case. The Board finds for the Respondent.

Final Determination

In accordance with the above findings and conclusions the Indiana Board of Tax Review now determines that the assessment should not be changed.

ISSUED: _____

Commissioner,
Indiana Board of Tax Review

IMPORTANT NOTICE

- APPEAL RIGHTS -

You may petition for judicial review of this final determination pursuant to the provisions of Indiana Code § 6-1.1-15-5. The action shall be taken to the Indiana Tax Court under Indiana Code § 4-21.5-5. To initiate a proceeding for judicial review you must take the action required within forty-five (45) days of the date of this notice.